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# Workplace Fairness

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## **Your Rights Filing a Whistleblower or Retaliation Claim - Rhode Island**

### **1. What legal protection does Rhode Island provide private sector employees in regard to whistleblowing and retaliation?**

The general rule is that most employees may be fired at any time for any reason or for no reason at all under what is known as the [at-will employment doctrine](#). However, in the past half-century, many exceptions to the general rule have emerged. Exceptions to this general rule can come from two sources: (1) courts, which modify and make "common law protections" or (2) the legislature, which enacts "statutory protections." Statutory protections tend to be specific, addressing certain subject areas (such as discrimination, workers' compensation, etc.). Yet, legislators often lack the foresight to address every possible situation of retaliation. Common law protections, on the other hand, tend to "fill the gaps" where no statute exists for a given situation.

#### Common Law Protections

While courts in most other states have recognized a "public policy" exception to the at-will employment doctrine, Rhode Island courts have yet to recognize such an exception. Employees must thus rely exclusively on the protections adopted by the legislature.

## Statutory Protections

The Rhode Island General Assembly has adopted statutory protections for certain activities. Most notably, Rhode Island protects whistleblowing activities under the Rhode Island Whistleblowers' Protection Act. In addition, Rhode Island has adopted narrow statutory protections for other activities. Employees who engage in protected activities under laws in the following subject areas are protected from retaliation: discrimination, hazardous substances, minimum wage, occupational health and safety, and wage discrimination (equal pay).

## Other Protections

In addition to the above state protections, federal law provides workers with additional protections. Furthermore, a private contract or collective bargaining agreement may also protect employees from certain forms of retaliation.

## **2. What activities does state law protect, and to whom does this protection apply?**

**General Whistleblower Protection:** The Rhode Island Whistleblowers' Protection Act  protects several activities:

- *Whistleblowing:* An employee may not be discharged (or discriminated against) in retaliation for reporting a suspected violation of law (federal, state, or local law). An employee must report the suspected violation to a supervisor or to a public body (such as state officers, state/federal agencies, judicial officers, law enforcement agencies, local officials, etc.). Notably, reports made exclusively to the media are not protected. The protection includes both past violations of law and future acts that an employee reasonably believes is about to occur. The report may be made verbally or in writing, although an employee has a higher burden of proof to establish that a verbal report was made. Also, an employee's suspicion that illegal conduct occurred does not need to turn out to be correct, only that the suspicion was reasonable under the circumstances. An employee is still protected if no illegal conduct actually occurred.
- *Participation in Public Proceedings:* An employee may not be discharged (or discriminated against) in retaliation for being requested by a public body to participate in an investigation, hearing, or inquiry held by the body itself or a court.
- *Refusing to Commit Illegal Activities:* An employee may not be discharged (or discriminated against) in retaliation for refusing to violate the law.

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**Discrimination:** An employee may not be discharged (or discriminated against) in retaliation for opposing an unlawful discriminatory practice. Nor may an employee be discharged (or discriminated against) in retaliation for making a charge, testifying, or assisting in an investigation, proceeding, or hearing under Rhode Island's laws against discrimination. These laws prohibit discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin. R.I. Gen. Laws § 28-5-7(5).

**Hazardous Substances:** An employee may not be discharged (or discriminated against) in retaliation for exercising rights or testifying in a proceeding under Rhode Island laws concerning hazardous substances. Under those laws, employees may request information about hazardous substances in the workplace and may refuse to work under certain circumstances. R.I. Gen. Laws § 28-21-8(2).

**Minimum Wage:** An employee may not be discharged (or discriminated against) in retaliation for making a complaint that he/she has not been paid a minimum wage. Nor may an employee be discharged (or discriminated against) in retaliation for instituting a proceeding, testifying in a proceeding, or serving on a wage board under Rhode Island's minimum wage laws. An employer may be fined between \$100 and \$500 per violation. R.I. Gen. Laws § 28-12-16.

**Nursing Care Facilities:** An employee may not be retaliated against for reporting information to the ombudsperson in order to aid the ombudsperson in their duties. R.I. Gen. Laws § 42-66.7-8.

**Occupational Health and Safety:** An employee may not be discharged (or discriminated against) in retaliation for filing a complaint, instituting a proceeding, testifying in a proceeding, or exercising a right under Rhode Island laws concerning occupational health and safety. R.I. Gen. Laws §§ 23-1.1-14(a), 28-20-21(a).

**Wage Discrimination (Equal Pay):** An employee may not be discharged (or discriminated against) in retaliation for making a complaint, instituting a proceeding, or testifying in a proceeding under Rhode Island laws concerning wage discrimination based on sex. An employer may be fined up to \$200 or imprisoned up to six months. R.I. Gen. Laws § 28-6-21.

### **3. How do I file a whistleblower or retaliation claim in Rhode Island?**

**General Whistleblower Protection:** An employee may file a lawsuit in an appropriate court. The lawsuit must be filed within **3 years** of the retaliatory action. A wrongfully discharged employee may be entitled to reinstatement, back wages, reinstatement of fringe benefits, actual damages, and attorneys' fees. If you believe you have a claim, you should contact a lawyer.

**Discrimination:** An employee may file a complaint with the [Rhode Island Commission for Human Rights \(RICHR\)](#). The complaint must be filed within **1 year** of the discriminatory action. The RICHR will attempt to resolve the matter on your behalf.

Alternatively, an employee can attempt to resolve the matter through a private lawsuit. If the RICHR is unable to secure a settlement, an employee can request a right-to-sue letter from the agency. An employee must wait at least 120 days after filing the initial complaint with the agency to request the right-to-sue letter (but must request the letter within 2 years of filing). If an employee requests a right-to-sue letter, the agency will stop its investigation. If you believe you have a claim, you should contact the RICHR immediately. If you wish to file a lawsuit, you should contact a lawyer.

RICHR can be reached at:

Rhode Island Commission for Human Rights  
180 Westminster Street, 3rd Floor  
Providence, RI 02903

Phone: 401-222-2661  
TTY: 401-222-2664  
Fax: 401-222-2616

**Hazardous Substances:** An employee may file a lawsuit in an appropriate court. The lawsuit must be filed within **180 days** of the retaliatory action. If you believe you have a claim, you should contact a lawyer immediately.

**Occupational Health and Safety:** An employee may file a complaint with the [Rhode Island Department of Labor and Training, Division of Occupational Safety](#). The complaint must be filed within **30 days** of the retaliatory action. The Department will investigate and attempt to resolve the matter. If you believe you have a claim, you should contact the Department immediately at:

Division of Occupational Safety  
RI Department of Labor and Training  
Center General Complex, Building 70-2  
1511 Pontiac Avenue  
PO Box 20157  
Cranston, RI 02920-0942

Phone: (401) 462-8570  
Fax: (401) 462-8576

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